



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 34894441

Date: OCT 30, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a project manager who wants to make eco-friendly products in the United States, seeks classification under the employment-based, first-preference immigrant visa category as a noncitizen with “extraordinary ability.” *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate “sustained national or international acclaim” and extensively document their achievements in their fields. *Id.*

The Director of the Nebraska Service Center denied the petition, and we dismissed the Petitioner’s appeal and following motion to reopen. *See In Re: 31839590* (AAO July 3, 2024). We affirmed the Director’s conclusion that the Petitioner’s proof met none of the requested category’s ten initial evidentiary requirements – three less than required for a final merits determination. *Id.*

The matter returns to us on a second motion to reopen. The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we conclude that his new proof does not satisfy at least three evidentiary criteria. We will therefore dismiss the motion.

## **I. LAW**

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to our latest decision. 8 C.F.R. § 103.5(a)(1)(i), (ii) (referencing “the prior decision” and “the latest decision in the proceeding”). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring new evidence to potentially change the case’s outcome).

## **II. ANALYSIS**

The Petitioner submits a copy of a 2017 letter from a Russian gold mining company. In part, the letter recognizes the Petitioner for his work in helping to set up the company’s “booth” at an international economic forum. The letter praises his “individual approach to each member, creative approach to accomplishment of assignments and prompt response to requests.”

The Petitioner does not specify which evidentiary criteria he believes the letter meets or helps to meet. But the letter does not satisfy, or help to satisfy, any of the following requirements he previously claimed to have met:

#### A. Nationally or Internationally Recognized Awards

This criterion requires “[d]ocumentation of the [noncitizen]’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.” 8 C.F.R. § 204.5(h)(3)(i).

The letter from the gold mining company does not establish the Petitioner’s receipt of a prize or award. The letter praises the Petitioner’s work. But the letter does not state his receipt of a prize or constitute an award. *See Guida v. Miller*, No. 20-cv-01471-LB, 2021 WL 568850, \*8 (N.D. Cal. Feb. 16, 2021) ((affirming USCIS’ finding that evidence of a petitioner’s team placing fifth or ninth in a competition or qualifying to compete in another event was not evidence of “awards”).

Also, the Petitioner has not established that he received the letter for excellence in his field. The record does not explain how helping a mining company establish its booth at an economic forum relates to his stated field of ecology. *See Krasniqi v. Dibbins*, 558 F.Supp.3d 168, 183-84 (D.N.J. 2021) (holding that an award honoring a filmmaker for promoting human rights does not constitute an award for excellence in their field).

Further, the letter from the gold mining company does not otherwise help the Petitioner to meet this criterion. He previously submitted evidence of his receipt of a “certificate of merit” from a Russian ministry. The record does not indicate that the letter relates to the Petitioner’s certificate. The letter therefore neither meets nor helps to meet this evidentiary criterion.

#### B. Membership in Associations

To meet this requirement, a petitioner must submit “[d]ocumentation of the [noncitizen]’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” 8 C.F.R. § 204.5(h)(3)(ii).

The letter from the gold mining company does not indicate the Petitioner’s membership in an association. Also, the letter does not appear to relate to the organization in which he previously demonstrated his membership. The letter therefore does not meet or help to meet this evidentiary requirement.

#### C. Remaining Issues

The motion’s evidence does not satisfy two of the four criteria that the Petitioner has claimed. Thus, he cannot meet three evidentiary criteria, as required for a final merits determination. *See* 8 C.F.R. § 204.5(h)(3). We therefore reserve consideration of whether the letter from the gold mining company meets the evidentiary criteria regarding published material about him and original contributions of major significance. *See* 8 C.F.R. § 204.5(h)(3)(iii), (v); *see also INS v. Bagamashad*, 429 U.S. 24, 25

(1976) (stating that agencies need not make “purely advisory findings” on issues unnecessary to their ultimate decisions).

The remainder of the Petitioner’s motion to reopen discusses evidence already of record. Contrary to 8 C.F.R. § 103.5(a)(2), this portion of the motion does not state “new facts.” Thus, it does not meet regulatory requirements for motions to reopen, and we will not consider it.

**ORDER:** The motion to reopen is dismissed.